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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/023,110

12/17/2001

Dale R. Heron

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

HOYE, MICHAEL W

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

05/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/023,110	Applicant(s) HERON ET AL.	
	Examiner Michael W. Hoyer	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-9 and 11-16.
 Claim(s) withdrawn from consideration: 17-22.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: The Applicants argue regarding independent claims 1 and 12 that, "There is simply no teaching or suggestion in Matthews III, Portuesi, and Sei, alone or in combination, [of] allowing access to the material in response to a signal from the material broadcaster that unlocks one of the locks...Rather, Portuesi merely teaches to display and activate a URL during certain periods and Sei merely teaches that the controller 612 of the set top box 600 enables playback. That is, any unlocking in Sei is done by the set top box, not by the broadcaster."

In response, the Examiner respectfully disagrees with the Applicants because the Portuesi reference was not used to reject the specific claim limitation as described above, and more specifically, regarding the Sei reference, Sei specifically teaches in col. 3, lines 50-61 that, "the subscriber management system 124 [or the claimed "broadcaster"] contains account information for all users such as customer names, addresses, set top box addresses, credit history, subscription status, and video on demand (VOD) status. This information is used to enable programs on the set top box(es) 120 of each user. Interactive screens for selecting services are formulated by the subscriber management system 124..." The subscriber management system 124 interacts with the program request database 136 in order to provide program entitlement to users (see col. 4, lines 21-23; 35-38; 41-46; 53-55 and 64-67). Furthermore, control information is sent and received by both the subscriber management system 124 and the set top boxes 120, where in one example, once a program that requires special authorization is requested, the subscriber management system 124 is queried for entitlement (see col. 5, lines 33-38 and 54-63; col. 6, line 63-col. 7, line 8; col. 7, lines 39-43 and 64-65; col. 8, lines 2-13; col. 13, lines 33-35; and col. 22, lines 46-59). Therefore, the claimed "allowing access to the multimedia material in response to a signal from a broadcaster of the scheduled material that unlocks at least one of the locks" is clearly met by the Sei reference.

The Applicants also argue that, "any unlocking in Sei allows playback of a program, rather than providing multimedia material related to the scheduled material. That is, if there is no unlocking, then no program is played in Sei."

In response, the Examiner respectfully disagrees with the Applicants because Sei clearly teaches the claimed "providing multimedia material related to the scheduled material" as described in col. 13, lines 53-67 and shown in Fig. 8B for example, where scheduled programs or multimedia material may be accessed by club members. In addition, Sei teaches that screens allow the user to select additional products or services (see col. 1, lines 39-49 and col. 3, lines 50-57), and there is scheduled material that is accessible for users according to their account information/subscription status regardless of whether or not additional multimedia material is accessible.



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